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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

**IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

## ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**ADMINISTRATIVE MOTION TO  
ENFORCE DECEMBER 18, 2013 CASE  
MANAGEMENT ORDER AND LOCAL  
RULE 7-11**

Without filing an administrative motion as required by Local Rule 7-11, and disregarding this Court's efforts to manage this lawsuit and its docket, Defendants violated the December 18, 2013 Case Management Order by filing motions to exclude expert evidence that exceed the Court-ordered 25 page limit. Dkt. 547 at 2 ("The parties' *Daubert* motions shall be limited to a total of 25 pages per side, with oppositions not to exceed a total of 25 pages per side".) Accordingly, Plaintiffs respectfully request that this Court strike excessive briefing that has violated the applicable page limits and Local Rule 7-11.

"A district court possesses inherent power over the administration of its business. It has inherent authority to regulate the conduct of attorneys who appear before it . . . [and] to promulgate and enforce rules for the management of litigation. *Spurlock v. FBI*, 69 F.3d 1010, 1016 (9th Cir. Cal. 1995) (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) and *Thomas v. Arn*, 474 U.S. 140, 146 (1985)). The authority of courts to manage their resources is "governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Chambers*, 501 U.S. at 43.

In numerous case management conferences, the Court addressed the parameters for the parties' summary judgment motions and evidentiary motions. See Oct. 21, 2013 Case Mgmt. Conf. Tr., at 70:20-23 ("The reason why I'm also limiting the briefing, number one, is there are going to be so many different motions that it's going to be difficult for my chambers to handle.") (emphasis added); May 15, 2013 Case Mgmt. Conf. Tr., at 28:13-18 ("I want to strongly encourage you to restrict these [*Daubert* motions] further and—and the reason is that, you know, most likely, things are going to weight and not admissibility."); Apr. 8, 2013 Case Management Conf. Tr., at 12:22-13:5 ("If the *Daubert* motions are like the *Daubert* motions I saw on the class cert. motion, I'm going to be disappointed because, you know, ultimately that's really weight and not admissibility and the criticisms that each side raised are really more for cross-examination and for closing argument. So I really—I just don't want to have to, you know, spend a ton of resources just having to do a bunch of those because those are not going to be granted."). Thus the Court limited the parties to 25 pages for their challenges to expert evidence.

Rather than adhere to this limitation, Defendants filed three motions to exclude expert

1 evidence totaling 35 pages (including two separate motions that challenge the same expert).  
 2 These motions consist of (1) Defendants' Joint Motion To Exclude The Expert Testimony Of  
 3 Edward E. Leamer, Ph.D. (15 pages); (2) Defendants' Joint Motion To Strike The Improper  
 4 Rebuttal Testimony In Dr. Leamer's Reply Expert Report (10 pages); and (3) Defendants' Joint  
 5 Motion to Exclude the Expert Testimony of Matthew Marx, and Memorandum Of Points And  
 6 Authorities In Support Thereof (10 pages). As even cursory examination reveals, the motion to  
 7 strike Dr. Leamer's reply is entirely redundant to and repetitive of the motion to exclude his  
 8 testimony, and reflects basically extra pages addressing the same issues.

9 Plaintiffs accordingly request that the Court enforce its scheduling order and strike  
 10 Defendants' Motion To Strike The Improper Rebuttal Testimony In Dr. Leamer's Reply Expert  
 11 Report. In the alternative, Plaintiffs respectfully request that the Court consider Plaintiffs'  
 12 opposition to Defendants' motion to strike, attached as Exhibit A.

13 Dated: February 6, 2014                                   LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
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15 By: /s/ Kelly M. Dermody

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